

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1948 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: John Jordan

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

PROPOSED COMMITTEE
SUBSTITUTE
FOR
HOUSE BILL NO. 1948

By: Jordan

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to public roads, highways and rights-of-way; authorizing certain use of public roads, highways, rights of way and easements; requiring certain consents from the Department of Transportation and boards of county commissioners; providing boards of county commissioners certain authority related to granting certain rights; providing certain standards; excluding need of landowner consent or compensation under certain conditions; requiring certain replacements and repairs; providing for forfeiture of certain rights under certain conditions; amending 69 O.S. 2011, Section 1208, which relates to Department of Transportation acquired rights-of-way; providing exception for certain use; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1450 of Title 69, unless there is created a duplication in numbering, reads as follows:

A. Any person or entity lawfully operating and in the course of doing business in this state may use the public roads and highways,

1 including the rights-of-way and all easements pertaining thereto, as
2 authorized in this section.

3 B. The use of the public roads and highways by any person or
4 entity may be for the purpose of erecting poles and posts, attaching
5 equipment, wires and fixtures thereto and laying pipes and conduits
6 over or on the surface thereof. All poles, posts, fixtures,
7 equipment, wires, pipes, and conduits shall be erected, placed,
8 adjusted or laid and maintained only after obtaining the consent
9 pursuant to rules promulgated by the Department of Transportation as
10 to the state highway system, and the boards of county commissioners
11 of the various counties as to roads and highways under their
12 jurisdiction. Provided, further, that the boards of county
13 commissioners may grant to any person or entity the right to lay
14 pipes and conduits under the surface of any road or highway under
15 their jurisdiction, subject to such rules, regulations and
16 conditions as shall be prescribed by the board of county
17 commissioners. Nothing in this section shall be construed to limit
18 any rights otherwise granted by law. All poles, posts, fixtures,
19 equipment, wires, pipes, and conduits shall be erected, placed,
20 adjusted, laid, constructed and maintained so as not to
21 inconvenience or endanger the public in the use of its roads and
22 highways and shall conform to all applicable provisions of the
23 National Electrical Safety Code approved by the American National
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1 Standards Institute, in effect at the time of such erection,
2 placement, adjustment or construction.

3 C. When the use of the public roads and highways by any person
4 or entity as authorized by this section is deemed to be temporary, a
5 grant of permission by the Department of Transportation or a board
6 of county commissioners shall not require consent of or compensation
7 to the abutting landowner, provided that such use serves the safety
8 and interest of the public by reducing or eliminating another burden
9 on the public road or highway. The use of the public roads and
10 highways by any person or company pursuant to the provisions of this
11 section shall be deemed to be temporary when such use is not
12 anticipated to exist and does not exist for longer than one (1) year
13 from the date permission for such use is granted.

14 D. Any person or entity utilizing the public roads and highways
15 pursuant to this section shall completely repair or replace any
16 damage, injury or other change to public roads or highways or
17 rights-of-way of this state or any county or municipality that would
18 inconvenience or endanger the public and is caused by the erection,
19 placement, adjustment, construction or maintenance of poles, posts,
20 fixtures, equipment, wires, pipes, and conduits pursuant to this
21 section.

22 E. The failure of such person or entity to construct or
23 maintain poles, wires, conduits, pipelines, and equipment upon or
24 under such public highways in full compliance with the rules

1 promulgated by the Department of Transportation or the board of
2 county commissioners, including placement of poles, wires, conduits,
3 pipelines, and equipment, shall forfeit the right of the public
4 citizen to use the public road or highways for such use, and the
5 private citizen may thereupon be ousted from the use of the public
6 road or highway.

7 SECTION 2. AMENDATORY 69 O.S. 2011, Section 1208, is
8 amended to read as follows:

9 Section 1208. ~~(a)~~ A. The rights-of-way acquired by the
10 Department shall be held inviolate for state highway and
11 departmental purposes, and no physical or functional encroachments
12 or uses shall be permitted within such rights-of-way.

13 ~~(b)~~ B. It shall be unlawful for any person to construct,
14 maintain or operate any gasoline pump, driveway canopy, building,
15 sign, fence, post, or any thing or structure on or overhanging any
16 right-of-way, or upon or overhanging any street occupied by a
17 designated state or federal highway, and the construction or
18 maintaining of any such thing or structure on or overhanging any
19 federal or state highway shall constitute a public nuisance, which
20 may be summarily abated by the Commission or its officers, agents,
21 servants and employees in the manner provided in this article.

22 ~~(c)~~ C. This section shall not apply to the lawful use of such
23 rights-of-way for the erection and operation of facilities of a
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1 public utility, or any person or entity authorized to use such
2 rights-of-way pursuant to Section 1 of this act.

3 SECTION 3. This act shall become effective November 1, 2017.
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